Some authorities hold that if the plaintiff is under the direction of a third party whose negligence combines with that of the defendant in causing the injury, he cannot recover, for the negligence of the third party will be imputed to him. *Lightfoot v. Winnebago Traction Co.*, 123 Wis. 479; *Paynee v. C., R. I. & P. R. Co.*, 39 Iowa 523. This doctrine is, however, denied by the weight of authority. *La Bernina*, L. R. 12 P. D. 58; *Randolph v. O'Riordon*, 155 Mass. 331. And it is laid down by the courts that follow this rule, that the plaintiff must have exercised ordinary care under the circumstances of the case to have prevented the injury. *G. H. & S. A. R. Co. v. Kutac*, 72 Tex. 643; *Dean v. Penn. R. Co.*, 129 Pa. 514. But where the plaintiff stands in such a position to third persons that he can direct or control their movements, the negligence of such third persons is to be imputed to him. *Knightstown v. Musgrove*, 116 Ind. 121.

NEGLIGENCE—LICENSEE—USE OF FOOTPATHS.—PHIPPS V. OREGON R. & N. Co., 161 FED. 376 (WASH.).—*Held*, that one who, without objecting, knowingly, and for a long time, permits the public to use his premises, for the purpose of traveling across the same upon a well-established path, cannot, without giving notice, render the same unsafe to the injury of those who have used the highway and have no notice of the changed condition without responding in damages for the resulting injury.

A licensee may be one, who, either alone or in common with the public, has for a long time used a footpath over lands of another with his knowledge and without objection. *Norfolk & W. R. R. Co. v. DeBoard's Admr.*, 91 Va. 700. Many states hold that one is not liable for negligence, not willful, to a licensee using his premises. *Redigan v. Boston & Me. R. R.*, 155 Mass. 44; *Lingenfelter v. Balt. & O. S. R. R.*, 154 Ind. 49. But the weight of authority modifies this rule and holds that there is a duty attached to the owner of premises to use ordinary care to protect licensees from unusual dangers in the same created by his own positive acts. *Rooney v. Woolworth*, 68 Conn. 167; *Payne v. N. Y., N. H. & H. R. R. Co.*, 104 N. Y.. 362. Where licensees use railroad premises for a footpath, the company is not restricted in the ordinary operation of its road. *Sutton v. N. Y. C. & H. R. R. Co.*, 66 N. Y. 243. But where a path has been used daily by numbers of people as licensees, the owner is bound to anticipate their presence with reasonable regard for their safety. *Pomponio v. N. Y., N. H. & H. R. R. Co.*, 66 Conn. 528.

TELEGRAPHS—CIPHER MESSAGES.—WESTERN UNION TELEGRAPH CO. V. MERRITT, 46 So. 1024 (FLA.).—*Held*, where the message is delivered for transmission in cipher and is unintelligible except to the sender and addressee, and no explanation is made to the operator as to its import and importance, the telegraph company is liable for transmitting it incorrectly in nominal damages only, or at most the sum paid for its transmission and delivery.

It is a general rule that damages resulting from the breach of a contract which were not contemplated by defendant, but arise from special circumstances unknown to him, cannot be compensated. Hence, in many jurisdictions, where a message does not show upon its face that it relates to transactions of importance and that pecuniary loss will probably result